

THE HON'BLE SMT JUSTICE T. RAJANI

MACMA No.739 of 2008

JUDGMENT:

This appeal is preferred by the appellant-insurance company, respondent No.2 in M.V.O.P.No.750 of 2005, against the judgment of the Principal District Judge, Nizamabad passed in M.V.O.P.No.750 of 2005 dated 07.11.2007 on the ground that the tribunal miserably failed to see that the deceased driver drove the auto in a rash and negligent manner and dashed against the stationed lorry from behind and that the tribunal grossly erred in passing the award against the owner of the lorry and the insurance company .

2. Counsel for the appellant mainly relied on the rough sketch of scene of accident, which shows both the stationed lorry and the auto on the left side of the road. On the basis of the said placement of the vehicles, the counsel contends that the auto ought to have taken to the right side of the road in order to avoid the accident but instead the auto dashed against the lorry by proceeding on the left of the road, which would clearly infer negligence on the part of the driver of the auto.

3. Admittedly, the accident occurred during night time, at about 20.30 hours. The evidence of the eye-witness is very clear that the lorry was parked without any indicators. Nothing is placed on record by the appellant herein to show that the lorry was stationed with indicators. Hence, in the said circumstances, it cannot be expected that the auto driver would be able to see the lorry, which is parked

ahead of his vehicle and would be able to take to the right of the road and avoid the accident. Hence, the negligence of the driver of the lorry is blatant. Hence, there is absolutely no reason to interfere with the award passed by the tribunal.

The civil miscellaneous appeal is dismissed. As a sequel, the miscellaneous applications pending, if any, shall stand closed. There shall be no order as to costs.

February 1, 2017
DSK

T. RAJANI, J

